

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 842
90TH GENERAL ASSEMBLY

Reported from the Committee on Local Government and Related Matters, April 12, 2000, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 842 Do Pass.

ANNE C. WALKER, Chief Clerk

3714L.05C

AN ACT

To repeal sections 320.094 and 321.242, RSMo Supp. 1999, relating to fire protection, and to enact in lieu thereof nine new sections relating to the same subject, with penalty provisions and an emergency clause for a certain section.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 320.094 and 321.242, RSMo Supp. 1999, are repealed and seven new sections enacted in lieu thereof, to be known as sections 320.094, 320.330, 320.400, 320.405, 320.407, 320.410 and 321.242, to read as follows:

320.094. 1. The state treasurer shall annually transfer an amount prescribed in subsection 2 of this section out of the state revenues derived from premium taxes levied on insurance companies pursuant to sections 148.310 to 148.461, RSMo, which are deposited by the director of revenue in the general revenue fund pursuant to section 148.330, RSMo, in a fund hereby created in the state treasury, to be known as the "Fire Education Fund". Any interest earned from investment of moneys in the fund shall be credited to the fund. The state treasurer shall administer the fund, and the moneys in such fund shall be used solely as prescribed in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fire education fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

2. Beginning July 1, [1998, three] **2000, two tenths of one** percent of the amount of premium taxes collected in the immediately preceding fiscal year pursuant to sections 148.310 to 148.461, RSMo, which are deposited in the general revenue fund [that exceeds the amount of premium taxes which were deposited in the general revenue fund in the 1997 fiscal year] shall be transferred from the general revenue fund to the credit of the fire education fund. [At the end of each fiscal year, the commissioner of administration shall determine the amount transferred to the credit of the fire education fund in each fiscal year by computing the premium taxes deposited in the general revenue fund in the prior fiscal year and comparing such amount to the amount of premium taxes deposited in the general revenue fund in the 1997 fiscal year.] An amount equal to [three] **two tenths of one** percent [of the increase] computed pursuant

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

to this section shall be transferred by the state treasurer to the credit of the fire education fund; however, such transfer in any fiscal year shall not exceed one million five hundred thousand dollars.

3. There is hereby established a special trust fund, to be known as the "Missouri Fire Education Trust Fund", which shall consist of all moneys transferred to the fund from the fire education fund pursuant to this subsection and any earnings resulting from the investment of moneys in the fund. Each fiscal year, an amount equal to forty percent of the moneys transferred to the fire education fund shall be transferred by the state treasurer to the credit of the Missouri fire education trust fund. The fund shall be administered by a board of trustees, consisting of the state treasurer, two members of the senate appointed by the president pro tem of the senate, two members of the house of representatives appointed by the speaker of the house, and two members appointed by the governor with the advice and consent of the senate. Any member appointed due to such person's membership in the senate or house of representatives shall serve only as long as such person holds the office referenced in this section. The state treasurer shall invest moneys in the fund in a manner as provided by law. Subject to appropriations, moneys in the fund shall be used solely for the purposes described in this section, but such appropriations shall be made only if the board recommends to the general assembly that such moneys are needed in that fiscal year to adequately fund the activities described in this section. Moneys shall accumulate in the trust fund until the earnings from investment of moneys in the fund can adequately support the activities described in this section, as determined by the board. At such time, the board may recommend that the general assembly adjust or eliminate the funding mechanism described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri fire education trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

4. The moneys in the fire education fund, after any distribution pursuant to subsection 3 of this section, shall be distributed to the University of Missouri Fire & Rescue Training Institute and the institute shall use the moneys received under this subsection to coordinate education needs in cooperation with community colleges, colleges, regional training facilities, and universities of this state and shall provide training and continuing education to firefighters in this state relating to fire department operations and the personal safety of firefighters while performing fire department activities. Programs and activities funded under this subsection must be approved by the Missouri fire education commission established in subsection 5 of this section. These funds shall primarily be used to provide field education throughout the state, with not more than two percent of funds under this subsection expended on administrative costs.

5. There is established the "Missouri Fire Education Commission", to be domiciled in the division of fire safety within the department of public safety. The commission shall be composed of five members appointed by the governor with the advice and consent of the senate, consisting of one firefighter serving as a volunteer of a volunteer fire protection association, one full-time firefighter employed by a recognized fire department or fire protection district, one firefighter training officer, one person serving as the chief of a volunteer fire protection association, and one chief fire officer from a recognized fire department or fire protection district. No more than three members appointed by the governor shall be of the same political party. The terms of office for the members appointed by the governor shall be four years and until their successors are selected and qualified, except that, of those first appointed, two shall have a term of four years, two shall have a term of three years and one shall have a term of two years. There is no limitation on the number of terms an appointed member may serve. The governor may appoint a member for the remaining portion of the unexpired term created by a vacancy. The governor may remove any appointed member for cause. The members shall at their initial meeting select a chairman. All members of the

commission shall serve without compensation for their duties, but shall be reimbursed for necessary travel and other expenses incurred in the performance of their official duties. The commission shall meet at least quarterly at the call of the chairman and shall review and determine appropriate programs and activities for which funds may be expended under subsection 4 of this section.

320.330. 1. Subject to appropriations, the department of public safety, in consultation with the state fire marshal, shall establish a program to award grants, pursuant to this section, to:

- (1) Volunteer fire protection associations;**
- (2) Fire protection districts that collected or received local tax revenue in an amount less than ten thousand dollars for the preceding fiscal year; or**
- (3) Municipalities with municipal fire departments having total budgets of less than ten thousand dollars for the preceding fiscal year.**

2. The grants established pursuant to this section shall be awarded for the purchase of equipment for, the construction of, or the adding of structural improvements to, fire stations for qualified fire protection districts or volunteer fire protection associations. Funds for the purchase of equipment may include all costs for fire safety and firefighting equipment, including trucks, hoses, protection gear for firefighters and other such equipment. Funds for construction may include all costs associated with the initial building of any fire station, but shall not include any costs associated with land acquisition. Funds for adding of structural improvements may include all costs associated with constructing a physical addition to any fire station, but shall not include any costs for repair or maintenance to any such fire station.

3. The department of public safety shall solicit applications from volunteer fire protection associations and fire protection districts and shall make grants from funds appropriated from general revenue for that purpose in such amounts and on such terms as it determines is necessary to help complete the proposed project or to compensate the shortfall of revenue to such association or district. Grants shall be awarded on a matching funds basis. In a grant application, the volunteer fire protection association or fire department shall show proof of dedication of funds equal to twenty-five percent of the amount necessary to complete the project. Upon grant approval, the department shall provide the additional seventy-five percent.

4. For purposes of this section, "volunteer fire protection association" means any fire protection association which is:

- (1) Staffed by persons not paid for their work;**
- (2) Organized for the purpose of combating fires in a specified area; and**
- (3) Either partially or wholly funded by membership or subscriber fees and not supported by local tax revenues.**

5. The department of public safety shall adopt rules necessary to implement the grant program established pursuant to this section. No rule or portion of a rule promulgated pursuant to this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

320.400. As used in sections 320.400 to 320.410, the following terms shall mean:

- (1) "Existing high rise buildings", any building constructed prior to August 28, 2000, and having floor surfaces used for human occupation located higher than seventy-five feet above the lowest level of the fire department's vehicle access;**
- (2) "Fire protection sprinkler system", a system of overhead piping designed in**

accordance with fire protection engineering standards. The system must be supplied from a reliable, constant and sufficient water supply such as a gravity tank, fire pump, reservoir or pressure tank or connection by underground piping to a city main or any combination of these. The system includes a controlling valve and device for actuating an alarm when the system is in operation. Fire protection sprinkler system, dry-pipe and preaction systems, antifreeze systems, and circulating closed loop systems, have meanings as defined and continuously revised in National Fire Protection Association Pamphlet 13, entitled Standard for the Installation of Sprinkler Systems;

(3) "Master plan", a specific scheme or plan detailing the number of floors, total square footage, present occupancy and a proposed completion date of each phase and completion date of total compliance with the requirements of sections 320.400 to 320.410.

320.405. 1. All existing high rise buildings as defined in section 320.400 shall be protected throughout by an approved fire protection sprinkler system by January 1, 2012, and subject to the schedule set forth in this section.

2. The minimum standards for approved fire protection sprinkler systems shall be the provisions of National Fire Protection Association Pamphlet 13, entitled Standard for the Installation of Sprinkler Systems, and National Fire Protection Association Fire Code 1.

3. The owners of existing high rise buildings which are not, as of August 28, 2000, protected throughout by an approved fire protection sprinkler system shall submit a written master plan to the state fire marshal on or before January 1, 2003, detailing with specificity a schedule for compliance with section 320.400 to 320.410.

4. Phase one of the installation shall include, but not be limited to, completion of an approved automatic fire protection system covering one-third of the total floor space for the building listed in the master plan for that building by January 1, 2006.

5. Phase two of the installation shall include, but not be limited to, completion of an approved automatic fire protection system covering two-thirds of the total floor space for the building listed in the master plan for that building by January 1, 2009.

6. Phase three of the installation shall include the completion of an approved automatic fire protection system throughout the entire building by January 1, 2012.

7. The time periods provided in subsections 4, 5 and 6 of this section may be extended for a period of up to one additional year per phase upon approval of the state fire marshal if the installation of automatic fire suppression extinguishing systems in an existing high rise building involves or requires the removal, abatement or protection of asbestos.

8. The state fire marshal is authorized to adopt those rules that are reasonable and necessary to accomplish the limited duties specifically delegated within this section and section 320.407. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

320.407. 1. No work shall begin under a master plan until the plans and specifications have been submitted and reviewed by the state fire marshal's office as required by section 320.405.

2. There shall be a review fee, as established by rule, assessed by the state fire marshal for reviewing the plans and specifications as detailed in section 320.405. Payment of this fee shall be transmitted to the director of the department of revenue for deposit into the general revenue fund.

320.410. 1. Whoever violates the provisions of sections 320.400 to 320.410 shall be guilty of a class B misdemeanor.

2. Sections 320.400 to 430.410 shall not apply to state-owned buildings.

321.242. 1. The governing body of any fire protection district [which operates within and has boundaries identical to a city with a population of at least thirty thousand but not more than thirty-five thousand inhabitants which is located in a county of the first classification, excluding a county of the first classification having a population in excess of nine hundred thousand,] or the governing body of any municipality having a municipal fire department may impose a sales tax in an amount of up to one-fourth of one percent on all retail sales made in such fire protection district or municipality which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no sales tax imposed pursuant to the provisions of this section shall be effective unless the governing body of the fire protection district or municipality submits to the voters of such fire protection district or municipality, at a county or state general, primary or special election, a proposal to authorize the governing body of the fire protection district or municipality to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall (insert name of district or municipality) impose a sales tax of (insert rate of tax) for the purpose of providing revenues for the operation of the (insert fire protection district or municipal fire department)?

G YES

G NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the sales tax authorized in this section shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the fire protection district or municipality shall not impose the sales tax authorized in this section unless and until the governing body of such fire protection district or municipality resubmits a proposal to authorize the governing body of the fire protection district or municipality to impose the sales tax authorized by this section and such proposal is approved by a majority of the qualified voters voting thereon.

3. All revenue received by a fire protection district or municipality from the tax authorized pursuant to the provisions of this section shall be deposited in a special trust fund and shall be used solely for the operation of the fire protection district or the municipal fire department.

4. All sales taxes collected by the director of revenue pursuant to this section on behalf of any fire protection district or municipality, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Fire Protection Sales Tax Trust Fund". Any moneys in the fire protection district sales tax trust fund created

prior to August 28, 1999, shall be transferred to the fire protection sales tax trust fund. The moneys in the fire protection sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund and of the amounts which were collected in each fire protection district or municipality imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of the fire protection district or municipality and the public. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the fire protection district or municipality which levied the tax. Such funds shall be deposited with the treasurer of each such fire protection district or municipality, and all expenditures of funds arising from the fire protection sales tax trust fund shall be for the operation of the fire protection district or the municipal fire department and for no other purpose.

5. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any fire protection district or municipality for erroneous payments and overpayments made and may redeem dishonored checks and drafts deposited to the credit of such fire protection districts or municipalities. If any fire protection district or municipality abolishes the tax, the fire protection district or municipality shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such fire protection district or municipality, the director of revenue shall remit the balance in the account to the fire protection district or municipality and close the account of that fire protection district or municipality. The director of revenue shall notify each fire protection district or municipality of each instance of any amount refunded or any check redeemed from receipts due the fire protection district or municipality. In the event a tax within a fire protection district is approved pursuant to this section, and such fire protection district is dissolved, if the boundaries of the fire protection district are identical to that of the city, the tax shall continue and proceeds shall be distributed to the governing body of the city formerly containing the fire protection district and the proceeds of the tax shall be used for fire protection services within such city.

6. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

Section B. Chapter 321, RSMo, is amended by adding thereto two new sections, to be known as sections 321.223 and 321.247, to read as follows:

321.223. 1. Notwithstanding any other provision of law to the contrary, any fire protection district within a county of the first classification with a charter form of government with a population of at least nine hundred thousand may contract with any municipality or village that does not operate their own fire department, or is not currently receiving fire protection services from a fire protection district, to provide fire protection services for a fee. In such event, the municipality and the fire protection district shall, by ordinance duly enacted by the governing board of each, agree upon the terms upon which such fire protection shall be furnished. The agreement may provide for the payment of a stated sum per year upon any method of compensation for such fire protection that is agreed upon by the fire district and the municipality entering into such contract; provided, that any contract for a period longer than five years shall have no binding force until ratified by a majority of the voters in the fire district and the

municipality entering into such a contract.

2. If the fire protection district is authorized to provide ambulance service within its district, the fire protection district may also provide ambulance service to the municipality, upon such terms as the fire district and the municipality may agree, which are not inconsistent with any requirement of subsection 1 of this section.

321.247. 1. The governing body of any fire protection district or municipality having a municipal fire department, which district or municipality is located in any county of the first classification having more than six hundred thousand but less than nine hundred thousand inhabitants, may impose a sales tax in an amount up to one-half of one percent on all retail sales made in such fire protection district or municipality which are subject to taxation pursuant to section 144.010 to 144.525, RSMo, provided that such sales tax is accompanied by a property tax reduction as described in this section for each year in which the sales tax is imposed. The tax authorized by this section shall be in addition to any and all other sales taxes provided by law, except that:

(1) No sales tax imposed pursuant to this section shall take effect unless the governing body of the fire protection district or municipality submits to the voters of such fire protection district or municipality, at a municipal, county or state general, primary or special election, a proposal to authorize the governing body of the fire protection district or municipality to impose a tax and reduce property taxes pursuant to this section; and

(2) No governing body defined in this subsection, if such governing body has not imposed a sales tax for fire protection prior to August 28, 2000, shall impose any new sales tax for fire protection other than the sales tax provided in this section.

2. The ballot of submission shall contain, but need not be limited to, the following language:

"Shall (insert name of district or municipality) impose a sales tax of (insert amount) for the purpose of providing revenues for the operation of the (insert name of fire protection district or municipal fire department) and shall the total property tax levy on properties in the (insert name of fire protection district or municipality) be reduced annually by an amount equal to one-half of the total amount of sales tax revenue collected from this sales tax in the same tax year?"

G YES

G NO"

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the sales tax and the corresponding property tax reduction shall be in effect on the first day of January of the year after the passage of the question. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the fire protection district or municipality shall have no power to impose the sales tax and reduce the property tax as authorized in this section unless and until the governing body of the fire protection district or municipality resubmits a proposal to authorize the governing body of the fire protection district or municipality to impose the sales tax and reduce the property tax pursuant to this section and such proposal is approved by a majority of the qualified voters voting thereon.

3. In each calendar year in which a sales tax is imposed pursuant to this section, the

county collector of revenue for the county in which any such fire protection district municipality is located shall, with the assistance of the department of revenue, determine the amount of sales tax collected pursuant to this section in any area imposing a sales tax pursuant to this section in the preceding calendar year, except that, in the first year in which any sales tax is collected pursuant to this section, the collector may, for purposes of this subsection, estimate the amount of sales tax which would have been collected pursuant to this section in the preceding year based on sales tax revenues from the preceding year in the affected areas. The county collector shall, after determining the budget of such county, excluding funds required to be set aside and placed to the credit of special road districts, within the limits set by the constitution and laws of this state for the following calendar year and the total property tax levy needed to raise the revenues required by such budget, reduce the total property tax levy in any area adopting a sales tax pursuant to this section in an amount sufficient to decrease the total property taxes it will collect in such areas by an amount equal to fifty percent of the sales tax revenue collected pursuant to this section in the tax year for which the property taxes are being levied.

4. All revenue received by a fire protection district or municipality from the tax authorized pursuant to this section shall be deposited in a special trust fund and shall be used solely for the operation of the fire protection district or the municipal fire department.

5. All sales taxes collected by the director of revenue pursuant to this section on behalf of any fire protection district or municipality, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in the fire protection sales tax trust fund created in section 321.242 and shall be administered pursuant to subsections 4 to 6 of section 321.242.

Section C. Because of the need to enhance fire protection in certain counties, section B of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section B of this act shall be in full force and effect upon its passage and approval.

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